

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

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WASHINGTON, D.C. 20062-2000
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November 21, 2014

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, DC 20510

The Honorable John Boehner
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives
Washington, DC 20515

Dear Majority Leader Reid, Speaker Boehner, Republican Leader McConnell, and Democratic Leader Pelosi:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, urges Congress to maintain current legal protections against certain self-referral to physician-owned hospitals. As you know, the House is currently circulating draft legislation that would repeal an important provision that currently protects employers and their employees. The Chamber has long been concerned about the significant problems stemming from physicians self-referring patients to hospitals in which they have an ownership interest. As articulated in letters dating back to 2007 and 2008, the Chamber continues to remain concerned about the increased utilization and costs associated with physician self-referral. For these reasons, the Chamber continues to oppose efforts to unwind current protections in the law.

Unbridled, spiraling health care costs is one of the most important challenges facing our health care system today. One legal protection that currently helps combat unnecessary cost increases is a safeguard against certain self-referral practices. When the most profitable patient cases are referred to hospitals where physicians have a financial interest, "cherry-picking" occurs. While this referral practice increases profits for these physician-owned hospitals, such cherry-picking also has the negative impact of leaving the more complicated and poorly reimbursed cases to be treated by neighboring community hospitals. Studies by the Medicare Payment Advisory Commission (MedPAC), Government Accountability Office (GAO), and the HHS Office of Inspector General (OIG) have documented the dangers of self-referral. These data have driven Congress to take action to prevent these practices and limit the harm that results, under both Republican and Democratic leadership. If the most recent protection enacted

as part of the ACA is reversed, increased and unnecessary utilization of medical services will inflate premium costs to employers, raise the overall cost of health care for all Americans, and diminish access to quality medical care for communities.

Balancing entrepreneurial spirit and sound public policy is no easy feat, but Congress achieved the right balance when it prohibited self-referral prospectively while grandfathering arrangements in place prior to December 31, 2010. Congress also provided for a safety valve, allowing for growth if facilities can demonstrate a need in the community. This alternative affords proper exceptions when expansion is appropriate and necessary.

The Chamber urges Congress to not take a step backward on this policy which has historically enjoyed strong bipartisan support dating back over a decade. Although the Chamber and many lawmakers strongly opposed the Affordable Care Act (ACA) generally in 2010, the Chamber and many bipartisan lawmakers have for years supported the protections and safeguards codified in §6001 of the ACA. This provision is working by appropriately limiting the practice of self-referral to physician-owned hospitals, which increases utilization and costs to businesses and taxpayers, as well as distorting health care markets. The Chamber supports the current self-referral law and opposes any effort to unwind or weaken it.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Bruce Josten', written in a cursive style.

R. Bruce Josten

cc: Chairman Dave Camp
Ranking Member Sandy Levin
Chairman Paul Ryan
Ranking Member Chris Van Hollen
Chairman Fred Upton
Ranking Member Henry Waxman
Chairman Ron Wyden
Ranking Member Orrin Hatch